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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/339,325	06/23/1999	YOAV SHOHAM	003660.P001X	2458

7590 02/14/2006

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/339,325		SHOHAM ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	John Van Bramer		3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-13 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-13 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/20/06</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. The amendment filed on January 20, 2006 under 37 CFR 1.114 has been considered but is ineffective to overcome the Woolston (U.S. Patent Number: 5,845,265) reference.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 9-13 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Woolston (U.S. Patent Number: 5,845,265).

Claim 22: Woolston discloses a system for conducting auctions, comprising:

- a. A market specification console (posting terminal 700) which receives selection of market protocols including trading primitives from a user to

dictate the behavior of the auction system (Col 4, lines 10-37; Col 10, lines 3-18; and Col 15, line 23 - Col 16, line 58); and

- b. A auction server (market maker computer 800), which receives the marker protocol and trading primitives from the market specification console through a network connection and implements the auction (Col 14, lines 51-63).

Claim 9: Woolston discloses a system for conducting auctions as in Claim 22 above, and further discloses the marker specification console contains user modifiable rules (Col 5, line 48 - Col 6, line 9 and Col 17, lines 1-12).

Claim 10: Woolston discloses a system for conducting auctions as in Claim 9 above, and further discloses wherein the rules comprise at least one market protocol (Col 15, line 23 - Col 16, line 58).

Claim 11: Woolston discloses a system for conducting auctions as in Claim 9 above, and further discloses the market specification console includes a graphical user interface (GUI) to configure the market protocol (Figure 13).

Claim 12: Woolston discloses a system for conducting auctions as in Claim 11 above, and further discloses the market protocol is displayed in parameterized form on the GUI (Figure 13).

Claim 13: Woolston discloses a system for conducting auctions as in Claim 11 above, and further discloses the user defines arbitrary market protocols via the GUI (the user in Woolston uses the GUI to enter all of the selections

pertaining to the auction when setting up the auction for posting to the auction server)(Figure 13).

### ***Response to Arguments***

4. Applicant's arguments filed January 20, 2006 have been fully considered but they are not persuasive.

The applicant's arguments regarding Woolston (U.S. Patent Number: 5,845,265) not disclosing that "the user provides data pertaining to numerous goods" and that it fails to teach "trading primitives" dictating the behavior of the auction with respect to a plurality of goods" is inaccurate. Column 10, lines 29-32 state; "By repeating the posting routine of FIG 3 the consignment node user may build a database of goods for the consignment node market, auction and/or agent searches". The ability of the user to repeat the posting routine teaches that the system can be used to provide auction data (including such trading primitives as category, subcategory, market and action designation) for a plurality of goods. This market data is then stored in a database and is used to control the behavior of the action.

### ***Conclusion***

5. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS**

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**ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

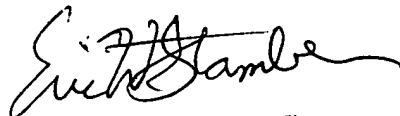
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jvb



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